



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-970]

Multilayered Wood Flooring from the People's Republic of China: Preliminary Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from Zhejiang Yuhua Timber Co. Ltd. (Yuhua), A-Timber Flooring Company Limited (A-Timber), and Mullican Flooring Co. (Mullican) (collectively, Yuhua *et al.*), the U.S. Department of Commerce (Commerce) is issuing these preliminary results of the changed circumstances review (CCR) of the antidumping duty (AD) order on multilayered wood flooring (MLWF) from the People's Republic of China (China). Commerce preliminarily determines that the MLWF sold through A-Timber and described below is produced and exported by Yuhua; as such, it is excluded from the AD order. We invite interested parties to comment on these preliminary results.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin or Max Goldman, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6478 or (202) 482-3896, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 2011, Commerce published the *Order*.¹ On September 1, 2021, Yuhua, a Chinese producer and exporter of MLWF, A-Timber, an unaffiliated company through which

¹ See *Multilayered Wood Flooring from the People's Republic of China: Amended Final Affirmative Determination of Sales at Less than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011), as amended in *Multilayered Wood Flooring from the Peoples Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012) (collectively, the *Order*).

Yuhua’s MLWF is sold to the United States, and Mullican, an unaffiliated U.S. importer of this MLWF, requested that Commerce initiate an expedited CCR, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216 and 351.221(c)(3).² In this CCR Request, Yuhua *et al.* requested that Commerce “clearly state and provide clarifying instruction to U.S. Customs and Border Protection (CBP) that {MLWF} produced by {Yuhua} and sold to {Mullican} by A-Timber Flooring is excluded from the {Order}.”³

According to Yuhua *et al.*, in the underlying less-than-fair-value investigation of MLWF from China, Yuhua, a mandatory respondent, reported that during the period of investigation (POI), it produced MLWF in China and engaged A-Timber as its sales agent. Yuhua *et al.* stated that A-Timber conducted all sales negotiations with unaffiliated U.S. customers and issued the invoices, and, upon confirmation of the sale, Yuhua exported the MLWF from China for delivery to the U.S. customers.⁴ Based on this sales channel that Commerce examined in the investigation, Commerce calculated a dumping margin of zero percent for subject merchandise produced and exported by Yuhua which was sold to the United States through A-Timber, and excluded subject merchandise produced and exported by Yuhua from the *Order*. In their CCR Request, Yuhua *et al.* claim that the sales channel on which Commerce based the *Final Determination* has not changed since the POI.⁵ However, starting in late 2020, CBP ceased implementing the cash deposit instructions issued by Commerce with respect to the *Final Determination*, which excluded from the *Order* MLWF produced and exported by Yuhua.⁶ According to Yuhua *et al.*, CBP is now demanding the posting of cash deposits and requiring the entry of Yuhua’s MLWF to be classified as “Type 3” entries subject to ADs.⁷

² See Yuhua *et al.*’s Letter, “Request for Changed Circumstances Review on Multi-Layered Wood Flooring,” dated September 1, 2021 (CCR Request).

³ *Id.* at 1-2.

⁴ *Id.* at 4 and Exhibit 2; see also *Multilayered Wood Flooring from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 34318 (October 18, 2011) (*Final Determination*), and accompanying Issues and Decision Memorandum.

⁵ *Id.* at 5.

⁶ *Id.* at 2 and Exhibit 2 (Investigation CBP Cash Deposit Instructions). Yuhua *et al.* also notes that it requested a scope ruling regarding its reported sales channel, which Commerce rejected. *Id.* at Exhibit 1.

⁷ *Id.* at 3.

In its CCR Request, Yuhua *et al.* argue that Commerce intended to exclude from the *Order* MLWF produced and exported by Yuhua and sold through A-Timber, as Commerce determined that Yuhua was the “exporter” for such sales. Yuhua *et al.* argue that any other interpretation would mean that that Commerce was “applying the zero rate to a company (Yuhua) that had not issued one invoice or made one sale to the U.S. during the POI.”⁸ Accordingly, Yuhua *et al.* now seek clarification that any MLWF sales transaction where Yuhua is the producer and exporter, as listed in the shipping documents, and where A-Timber is the sales agent, is excluded from the *Order*.⁹

On October 14, 2021, the American Manufacturers of Multilayered Wood Flooring (the petitioner) filed a letter in support of Yuhua *et al.*’s CCR Request, stating that Commerce should confirm that MLWF sold through Yuhua’s “sales agent, A-Timber ... is excluded from the *Order*, consistent with {Commerce}’s prior determination”¹⁰ On October 15, 2021, Commerce extended the deadline to initiate this CCR and, on December 2, 2021, Commerce initiated this CCR, noting that it was not combining the initiation with the preliminary results because it was necessary to solicit additional information from Yuhua *et al.* regarding A-Timber’s role in the sales channel of MLWF produced and exported by Yuhua.¹¹ On February 22, 2022, Yuhua *et al.* responded to Commerce’s post-initiation questionnaire.¹² In its questionnaire response, Yuhua *et al.* reported, *inter alia*, the following information:

- Yuhua sells MLWF to the United States exclusively through A-Timber and A-Timber conducts the marketing and price negotiations. Yuhua provides A-Timber U.S. sales targets and Yuhua and A-Timber strategize sales prices to the United States.

⁸ *Id.* at 7-8.

⁹ *Id.* at 7 and Exhibit 2 (containing sample sales documents from Yuhua’s response to section A of the AD questionnaire issued in the investigation).

¹⁰ See Petitioner’s Letter, “Multilayered Wood Flooring from the People’s Republic of China: Letter in Support of Request for Changed Circumstances Review,” dated October 14, 2021.

¹¹ See Commerce’s Letter, “Request for a Changed Circumstance Review Antidumping Duty Order on Multilayered Wood Flooring from the People’s Republic of China: Extension of Initiation Deadline,” dated October 15, 2021; and *Multilayered Wood Flooring from the People’s Republic of China: Notice of Initiation of Changed Circumstances Review*, 86 FR 68475 (December 2, 2021).

¹² See Yuhua *et al.*’s Letter, “Supplemental Questionnaire Response,” dated February 22, 2022.

- The MLWF sold through A-Timber to the United States must be produced by Yuhua.
- A-Timber represents Yuhua at sales exhibitions where both Yuhua's and A-Timber's names are displayed on the information booths. A-Timber also represents Yuhua's "Parrot Brand" trademark.
- Mullican frequently visits Yuhua's factory and Yuhua promotes its products directly to Mullican.
- Yuhua is the exporter of record (*e.g.*, it is listed in the shipping documents) and ships directly to U.S. customers from its plant. A-Timber does not take title to the merchandise.
- The sales contract is between A-Timber and Mullican.
- Yuhua issues an invoice to A-Timber, and A-Timber adds a markup and issues its own sales invoice to Mullican.¹³

Scope of the *Order*

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)¹⁴ in combination with a core.¹⁵ The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.*, "engineered wood flooring" or "plywood flooring." Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring

¹³ *Id.*

¹⁴ A "veneer" is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

¹⁵ Commerce Interpretive Note: Commerce interprets this language to refer to wood flooring products with a minimum of three layers.

included within the definition of subject merchandise may be unfinished (*i.e.*, without a finally finished surface to protect the face veneer from wear and tear) or “prefinished” (*i.e.*, a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard (HDF), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.*, circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product. Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS):¹⁶ 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.0620; 4412.31.0640; 4412.31.0660; 4412.31.2510; 4412.31.2520; 4412.31.2610; 4412.31.2620; 4412.31.3175; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075; 4412.31.4080; 4412.31.4140; 4412.31.4160; 4412.31.4175; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.5225; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.0640; 4412.32.0665; 4412.32.2510; 4412.32.2520; 4412.32.2525; 4412.32.2530; 4412.32.2610; 4412.32.2625; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.3225; 4412.32.5600; 4412.32.5700; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5105; 4412.99.5115; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500;

¹⁶ On October 31, 2018 and March 10, 2022, we added the following HTSUS subheadings to update the ACE Case Reference File: 4412.33.0640, 4412.33.0665, 4412.33.0670, 4412.33.2625, 4412.33.2630, 4412.33.3225, 4412.33.3235, 4412.33.3255, 4412.33.3275, 4412.33.3285, 4412.33.5700, 4412.34.2600, 4412.34.3225, 4412.34.3235, 4412.34.3255, 4412.34.3275, 4412.34.3285, 4412.34.5700, 4412.51.1030, 4412.51.1050, 4412.51.3105, 4412.51.4100, 4412.51.5100, 4412.52.1030, 4412.52.1050, 4412.52.3105, 4412.52.4100, 4412.52.5100, 4412.59.6000, 4412.59.7000, 4412.59.8000, 4412.59.9000, 4412.59.9500, 4412.91.0600, 4412.91.1030, 4412.91.1040, 4412.91.3110, 4412.91.3120, 4412.91.3130, 4412.91.3140, 4412.91.3160, 4412.91.3170, 4412.91.5105, 4412.92.0700, 4412.92.1130, 4412.92.1140, 4412.92.3120, 4412.92.3160, 4412.92.3170, 4412.92.4200, 4412.92.5205, 4412.99.5800, 4412.99.6100, 4412.99.7100, 4412.99.8100, 4412.99.9100, 4412.99.9700, 4418.74.2000, 4412.74.9000, 4418.75.4000, and 4418.75.7000. See Memoranda “Request from Customs and Border Protection to Update the ACE AD/CVD Case Reference File,” dated October 31, 2018; and “Request from Customs and Border Protection to Update the ACE AD/CVD Case Reference File,” dated March 10, 2022.

4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; 4418.74.2000; 4418.74.9000; 4418.75.4000; 4418.75.7000; 4418.79.0100; and 9801.00.2500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Preliminary Results of Changed Circumstances Reviews

Commerce's *Final Determination* specified that entries produced and exported by Yuhua are excluded from the *Order*.¹⁷ After reviewing the information on the record of this CCR, *e.g.*, that Yuhua *et al.*'s sales channel has not changed from that which we examined in the investigation, Commerce preliminarily determines that Yuhua is the producer and exporter of MLWF sold to the United States through A-Timber.

Should we reach the same determination in the final results, we will instruct CBP that, because Yuhua is the producer and exporter of MLWF sold through A-Timber, Yuhua's exclusion from the *Order* applies to entries of such merchandise. That is, the exclusion would not apply to MLWF produced and/or exported by a Chinese entity other than Yuhua and sold through A-Timber. We also preliminarily determine that it is appropriate to terminate any suspension of liquidation on MLWF produced and exported by Yuhua and sold through A-Timber, and retroactively apply this determination to all unliquidated entries of such merchandise. We intend to release draft CBP instructions to parties at the same time as these preliminary results and allow a period of time for comments.

Public Comment

Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.¹⁸ Rebuttal briefs, which must be limited to issues raised in case briefs, may be filed not later than seven days after the due date for case briefs.¹⁹ All submissions must

¹⁷ See CCR Request at Exhibit 2 (Investigation CBP Cash Deposit Instructions).

¹⁸ Commerce is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for filing of case briefs.

¹⁹ Commerce is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for filing of rebuttal briefs.

be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the deadlines set forth in this notice.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to the issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically-filed request must be received successfully in its entirety by 5:00 pm Eastern Time within 14 days of publication of this notice.²⁰ Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.²¹ Parties should confirm the date, time and location of the hearing by telephone two days before the scheduled date.

Unless extended, consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated.

Notification to Interested Parties

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act, and 19 CFR 351.216 and 351.221(c)(3)(i).

Dated: July 22, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

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²⁰ See 19 CFR 351.310(c).

²¹ See 19 CFR 351.310(d).